



FEDERAL COMMUNICATIONS COMMISSION

ENFORCEMENT BUREAU
ATLANTA OFFICE

3575 KOGER BLVD, SUITE 320, DULUTH GA 30096
Telephone (770) 935-3370

March 19, 2004

CB Sales and Service
ATTN: Mr. Jim Norton
190E Lenlock Lane
Anniston, AL 36206

FILE No.: EB-04-AT-024
Sent via Certified
Return Receipt requested and
First Class mail

CITATION

Citation No.: C200432480001
Released: March 19, 2004

By the Enforcement Bureau, Atlanta Office

1. This is an Official Citation issued pursuant to Section 503(b) of The Communications Act of 1934, as amended ("Act"),¹ to Mr. Jim Norton, owner of CB Sales and Service, Anniston, Alabama, for violation of Section 302(b) of the Act,² and Section 2.803(a)(1) of the Commission's Rules.³

2. An investigation by the FCC's Atlanta Office revealed that on March 11, 2004, you offered for sale at your retail store located at 190E Lenlock Lane, Anniston, Alabama, eight models of non-certified Citizens Band transceivers, namely, a Galaxy model DX66V, a Galaxy model DX 73V, a Galaxy model 48T Big Rig Series, a Galaxy model DX88HL, and a Galaxy model DX77HML, a Galaxy DX44V, Galaxy DX33HML, and Galaxy model DX99V. According to Commission's records, these devices have not received an FCC equipment authorization which is required for Citizens Band transmitters marketed in the United States. Furthermore, these devices bore no FCC equipment authorization labeling that is required for Citizens Band transceivers marketed in the United States.⁴

3. Section 302(b) of the Act provides "{n}o person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated pursuant to this section." Section 2.803(a)(1) of the Rules provides that "...no person shall sell or lease, or offer for sale or lease (including advertising for sale or lease), or import, ship or distribute for the purpose of selling or leasing or offering for sale or lease, any radio frequency device unless: (1) In the case of a device subject to certification, such device has been authorized by the Commission in accordance with the rules in this chapter and is properly identified and labeled..." Jim Norton's CB Sales and Service's offer for sale of these devices violates both sections.

¹ 47 U.S.C. § 503(b)(5)

² 47 U.S.C. § 302a(b)

³ 47 C.F.R. § 2.803(a)(1)

⁴ See 47 C.F.R. §§ 95.409(a) & 2.925(a)

4. Additionally, dual use CB and amateur radios of the kind at issue here may not be certificated under the Commission's rules. Section 95.655(a) of the rules states: "... ({CB} Transmitters with frequency capability for the Amateur Radio Services....will not be certificated.)" *See also* FCC 88-256, 1988 WL 488084 (August 17, 1988). This clarification was added to explicitly foreclose the possibility of certification of dual use CB and amateur radios, *see id.*, and thereby deter use by CB operators of frequencies allocated for amateur radio use. Five of the Galaxy model CB transceivers previously mentioned were identified as having the modification done to enable dual use of CB and amateur frequencies. These units were Galaxy DX66V; Galaxy DX73V; Galaxy DX48T; Galaxy DX88HL; and Galaxy DX77HML.

5. Furthermore, the Commission has revised Section 2.1204(a)(5) of its rules to prohibit all marketing and/or offering for sale in the United States of such devices even when the purchaser(s) had provided assurances that the transceivers are being bought solely for export. ALL DOMESTIC MARKETING OF SUCH DEVICES VIOLATES THE COMMUNICATIONS ACT OF 1934, AS AMENDED, AND THE COMMISSION'S RULES.

6. Subsequent violations of the Communications Act or of the Commission's Rules may subject the violator to substantial monetary forfeitures not to exceed \$11,000 for each such violation or each day of a continuing violation, seizure of equipment through *in rem* forfeiture action, and criminal sanctions including imprisonment.

7. Mr. Jim Norton may request a personal interview at the closest FCC location to its place of business, namely:

Federal Communications Commission
3575 Koger Blvd., Suite 320
Duluth, GA 30096

which can be contacted by telephone at 770-935-3370. Any written statement should specify what actions have been taken to correct the violation outlined above. When corresponding with the Commission, case number EB-04-AT-024 should be referenced.

8. Any statement or information provided may be used by the Commission to determine if further enforcement action is required. Any knowingly or willfully false statement made in reply to this notice is punishable by fine or imprisonment.

FEDERAL COMMUNICATIONS COMMISSION

Fred Broce
District Director, Atlanta Office

